

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TED KNOX,

Plaintiff,

V.

MARVIN F. POWERS, et al.,

Defendants.

CASE NO. 05-114-JPG-PMF

REPORT AND RECOMMENDATION

FRAZIER, Magistrate Judge:

Before the Court is a sua sponte recommendation that plaintiff's claim against defendant Marilyn Jane Simmons be dismissed. The death of defendant Simmons was suggested on the record on February 27, 2007, (Doc. No. 109). Pursuant to Rule 25 of the Federal Rules of Civil Procedure, a motion for substitution was due within 90 days. Fed. R. Civ. P. 25(a)(1). A motion for substitution was not filed.

IT IS RECOMMENDED that plaintiff's claim against defendant Marilyn Jane Simmons be DISMISSED with prejudice.

SUBMITTED: June 5, 2007.

s/Philip M. Frazier

PHILIP M. FRAZIER

UNITED STATES MAGISTRATE JUDGE